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AN ACT

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RELATING TO LAND USE; REQUIRING COUNTIES AND MUNICIPALITIES TO
REGULATE BUILDINGS AND BUILDING IMPROVEMENTS IN FLOOD HAZARD AREAS;
REQUIRING STATE-FINANCED BUILDING IMPROVEMENTS TO COMPLY WITH
NATIONAL FLOOD INSURANCE PROGRAM STANDARDS; AMENDING AND
ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 3-18-7 NMSA 1978 (being Laws 1975, Chapter 14, Section
1, as amended) is amended to read:

"3-18-7. ADDITIONAL COUNTY AND MUNICIPAL POWERS--FLOOD AND
MUDSLIDE HAZARD AREAS--FLOOD PLAIN PERMITS--LAND USE CONTROL--
JURISDICTION--AGREEMENT.--

A. For the purpose of minimizing or eliminating damage from floods or
mudslides in federal emergency management agency and locally designated flood-
prone areas and for the purpose of promoting health, safety and the general welfare,
a county or municipality with identified flood or mudslide hazard areas shall by
ordinance:

(1) designate and regulate flood plain areas having special
flood or mudslide hazards;

(2) prescribe standards for constructing, altering, installing or
repairing buildings and other improvements under a permit system within a designated
flood or mudslide hazard area;

(3) require review by the local flood plain manager for
development within a designated flood or mudslide hazard area provided final
decisions are approved by the local governing body;

(4) review subdivision proposals and other new developments
within a designated flood or mudslide hazard area to ensure that:

(a) all such proposals are consistent with the need to

1 minimize flood damage;

2 (b) all public utilities and facilities such as sewer, gas,
3 electrical and water systems are designed to minimize or eliminate flood damage; and

4 (c) adequate drainage is provided so as to reduce
5 exposure to flood hazards;

6 (5) require new or replacement water supply systems or
7 sanitary sewage systems within a designated flood or mudslide hazard area to be
8 designed to minimize or eliminate infiltration of flood waters into the systems and
9 discharges from the systems into flood waters and require on-site waste disposal
10 systems to be located so as to avoid impairment of them or contamination from them
11 during flooding; and

12 (6) designate and regulate floodways for the passage of flood
13 waters.

14 B. A flood plain ordinance adopted pursuant to this section shall
15 substantially conform to the minimum standards prescribed by the federal insurance
16 administration, regulation 1910 issued pursuant to Subsection 7(d), 79 Stat. 670,
17 Section 1361, 82 Stat. 587 and 82 Stat. 575, all as amended.

18 C. A county or municipality that enacts a flood plain ordinance shall
19 designate a person, certified pursuant to the state-certified flood plain manager
20 program, as the flood plain manager to administer the flood plain ordinance.

21 D. A county or municipality that has areas designated by the federal
22 emergency management agency and the county or municipality as flood-prone shall
23 participate in the national flood insurance program.

24 E. A county or municipality shall have exclusive jurisdiction over flood
25 plain permits issued under its respective flood plain ordinance in accordance with this
section and so long as all structures built in flood plains are subject to inspection and
approval pursuant to the Construction Industries Licensing Act. Notwithstanding
Section 3-18-6 NMSA 1978, when a municipality adopts a flood plain ordinance
pursuant to Paragraph (2) of Subsection A of this section, the municipality's jurisdiction

1 under the flood plain ordinance may take precedence over a respective county flood
2 plain ordinance within the municipality's boundary and within the municipality's
3 subdividing and platting jurisdiction.

4 F. A county or municipality shall designate flood plain areas having
5 special flood or mudslide hazards in substantial conformity with areas identified as
6 flood- or mudslide-prone by the federal insurance administration pursuant to the
7 national flood insurance program and may designate areas as flood- or mudslide-
prone that may not be so identified by the federal insurance administration.

8 G. A municipality or county adopting a flood plain ordinance pursuant
9 to this section may enter into reciprocal agreements with any agency of the state,
10 other political subdivisions or the federal government in order to effectively carry out
the provisions of this section.

11 H. The department of public safety is designated as the state
12 coordinating agency for the national flood insurance program and may assist counties
13 or municipalities when requested by a county or municipality to provide technical
14 advice and assistance."

15 Section 2. PUBLIC BUILDINGS--COMPLIANCE WITH THE NATIONAL FLOOD
16 INSURANCE PROGRAM.--A building that receives state appropriations for its
17 construction or that is repaired or improved with state appropriations in an amount
18 greater than fifty percent of the building's value before the repair or improvement shall
19 comply with standards of the national flood insurance program and Section 3-18-7
NMSA 1978.

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